

**REMARKS**

Claims 34-39 and 51 are pending in this application, of which claims 34, 37, and 50 are independent in form. Claims 40-49 and 50 have been withdrawn from consideration in response to a Restriction Requirement. Reconsideration and withdrawal of the pending rejections are respectfully requested in view of the foregoing amendments and following remarks.

**Claim Rejections – 35 U.S.C. § 103**

Claims 34-39 and 50 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,343, 738 B1 to Ogilvie (“Ogilvie”) in view of U.S. Patent Application Publication No. 2004/0138966 by Kopelman et al. (“Kopelman”). In reviewing this rejection, however, Applicant notes that while the Office Action named Kopelman as one of the references relied upon, it was not in fact relied upon in any of the pending rejections. Accordingly, Applicant comments only on Ogilvie here.

One of the features of Applicant’s invention is that it permits (1) sending an evaluating program to a seller-side apparatus, (2) sending, to the buyer-side apparatus, the evaluation result of which the electronic contents were evaluated by the evaluating program in the seller-side apparatus.

Ogilvie is different. Applicant respectfully asserts that Ogilvie merely discloses generating a sample (e.g., a thumbnail sample) by the program tool to send it. In other words, Ogilvie only discloses generating a sample for evaluation by the buyer, and does not appear to teach, disclose, or suggest sending an evaluation result, as recited in Applicant’s claims..

Another feature of Applicant's invention is that it includes (1) sending to the seller-side apparatus the condition of purchase (e.g., the purchase amount) from the buyer-side apparatus, and (2) sending electronic contents in response to said sending of the condition of purchase.

Ogilvie, in contrast, does not appear to teach, disclose, or suggest sending the condition of purchase from the buyer-side apparatus, as recited in Applicant's claims. Accordingly, because Ogilvie fails to teach, disclose, or suggest all of the claim elements of Applicant's claims, the pending rejections of Applicant's claims under 35 U.S.C. §103(a) should be withdrawn.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

**AUTHORIZATION**

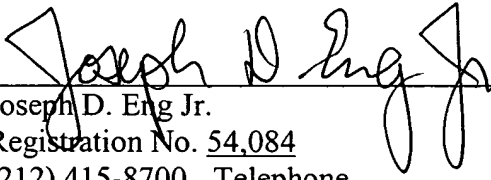
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: October 25, 2005

By: \_\_\_\_\_

  
Joseph D. Eng Jr.  
Registration No. 54,084  
(212) 415-8700 Telephone  
(212) 415-8701 Facsimile

**Correspondence Address:**

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101